

REMARKS

I. Restriction requirement

In the Office Action dated August 6, 2010, the Examiner required restriction of originally filed claims 1-26 into six different groups, Groups I-VI, as follows:

Group I, claims 1-15 drawn to a chimeric protein;

Group II, claim 16, drawn to a transgenic animal;

Group III, claims 17-21, drawn to a method for detecting changes in calcium concentration;

Group IV, claims 22-23 and 25 drawn to a method for detecting small chemical

Group V, claim 24, drawn to an ex vivo method; and

Group VI, claim 26, drawn to a diagnostic method.

Office Action at page 2. The Office Action also required a species election to define the “required components of a particular modified calcium-binding polypeptide for examination,” and asserted that Applicants must “minimally specify: (a) a first chromophor type; (b) a troponin type, and (c) a second chromophore type.” Office Action at page 4.

II. The restriction requirement is directed to canceled claims instead of the currently pending claims

Applicants filed a Preliminary Amendment dated May 2, 2007, canceling claims 1-26 and adding new claims 27-60. Accordingly, the restriction requirement is directed to canceled claims instead of the currently pending claims. (On March 7, 2008 a certified copy of the priority document was submitted to the USPTO. The PAIR listing regarding the priority document submission makes it appear that the priority document claims are the most recent claims but this is in error as the pending claims submitted in an amendment are those presented in the May 2, 2007 amendment.)

Applicants suggest, however, that there is a correlation between canceled claims 1-26 and new claims 27-60 as shown in the table below. The restriction Group, as defined by the Examiner in the restriction requirement, is also included as the first column of the table.

Restriction Group	Original claim	Corresponding new claim(s)
Group I	1	27
	2	28
	3	29
	4	30
	5	31, 32
	6	33
	7	34
	8	35
	9	36-38
	10	39
	11	40
	12	41
	13	42
	14	43
	15	44-46
Group II	16	47-50
Group III	17	51
	18	52
	19	53
	20	54
	21	55
Group IV	22	56
	23	57
Group V	24	58
Group IV	25	59
Group VI	26	60

Given the correlation between the canceled claims and the new claims, and in an effort to expedite prosecution, Applicants' response to the restriction requirement and species election will be directed to the new claims. If the Examiner objects to the above claim correlations/groupings and election based on the new claims, Applicants respectfully request that a new restriction requirement be issued, specifically directed to pending claims 27-60.

III. Election

Applicants hereby elect Group I, claims 27-46, "directed to a chimeric protein," with traverse. Applicants traverse the restriction requirement on the grounds that the search and examination of the six groups of claims is not unduly burdensome to the examiner. In addition, Applicants preserve the right to rejoin the non-elected method claims once the composition claims are deemed patentable.

For the species elections, Applicants elect (a) CFP as a first chromophore type; (b) human troponin C as a troponin type; and (c) YFP as a second chromophore type. Group I claims encompass the elected species. The species election is made with traverse on the grounds that the search and examination of the allegedly patentably distinct species is not unduly burdensome to the examiner. Applicants preserve the right to claim additional species which depend from or otherwise require all the limitations of an allowable generic claim.

IV. Conclusion

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

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If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extension fees to Deposit Account No. 19-0741.

Respectfully submitted,

By Michele M. Simkin

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FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5538
Facsimile: (202) 672-5399

Michele M. Simkin
Attorney for Applicant
Registration No. 34,717